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March 21, 2012

***Ex Parte* Notice**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *Connect America Fund, WC Docket,* No. 10-90, *National Broadband Plan for Our Future,* GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers,* 07-135, *High-Cost Universal Service Support,* WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime,* CC Docket No. 01-92

Dear Ms. Dortch:

On March 19, 2012, Rod Bowar of Kennebec Telephone (Kennebec), Jerry Reisenauer of West River Telephone Cooperative Telephone (West River), Richard Coit of the South Dakota Association of Telephone Cooperatives, Dan Caldwell and Rhonda Maun of Consortia Consulting, and the undersigned (collectively, the Companies) met with Amy Bender, Patrick Halley, Katie King, Gary Siegel, James Eisner, and Rodger Woock of the Wireline Competition Bureau (collectively, Staff) to discuss the above-referenced proceedings.

The Companies explained that data underlying the proposed regression analysis and relating to Kennebec and West River are incorrect. Specifically, Kennebec explained that although it serves **623** housing units within **742** square miles, the data relied upon by the Commission avers that Kennebec serves **528** housing units within **305** square miles. Similarly, West River explained that although it serves **3,526** housing units within **6,209** square miles, Commission data avers that West River serves **564** housing units within **261** square miles. The Companies expressed their concern that the errors by factors of 2.4x and 23.8x, respectively, could lead to placement of the Companies in an incorrect group of "similarly situated" peers. The Companies explained that those incorrect placements could lead to devastating financial impacts for each company.

In response to the Companies' concern regarding the need to correct the errors, Staff asked whether the Companies would be willing to participate in data collection activities that would investigate study areas and service area boundaries; Kennebec and West River stated that they would agree to participate in such an effort to correct the errors. Noting the impending July 2012 timeline for adoption of new regulations based on the regression analysis, however, the

Companies asked how the errors could be corrected in the near term. In response, Staff stated the Companies have been preceded by other entities identifying errors of a similar nature, and advised the Companies that entities seeking correction of the Commission data should file a waiver. The Companies expressed their position that a less-burdensome process would be far better suited to the task of correcting a plain and verifiable data error; the Companies further proposed that a waiver process (particularly one as burdensome and intensive as that contemplated in the October 27, 2011, Order in the above-captioned dockets) is more suited to a situation in which the underlying "facts in evidence" are not disputed. In contrast, the instant situation contemplates a data correction that can be achieved in a comparatively streamlined manner.

In further discussion, Staff explained that since the model functions upon a premise of projective geometry, correction of the errors relating to the Companies' respective service areas would implicate *de facto* the accuracy of other service areas. The Companies acknowledged the "butterfly theory" impact that correction of data relating to their service areas might engender, but reiterated that the incorrect data was not of their creation and that the Commission's reliance upon it would harm the Companies; moreover, such reliance by the Commission would, by definition, result in a model that was patently erroneous in its distributions across potentially wide swaths of the industry.

In support of their discussion, the Companies relied upon the attached presentation.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office.

Please do not hesitate to contact me at (703) 351-2035 or jseidemann@ntca.org if you have any questions or require additional information.

Respectfully submitted,

/s/ Joshua Seidemann
Joshua Seidemann
Director of Policy

Attachment

cc: Amy Bender
Patrick Halley
Katie King
Gary Siegel
James Eisner
Roger Woock

West River and Kennebec

Erroneous Data = Unintended Consequences

Meeting with FCC WCB

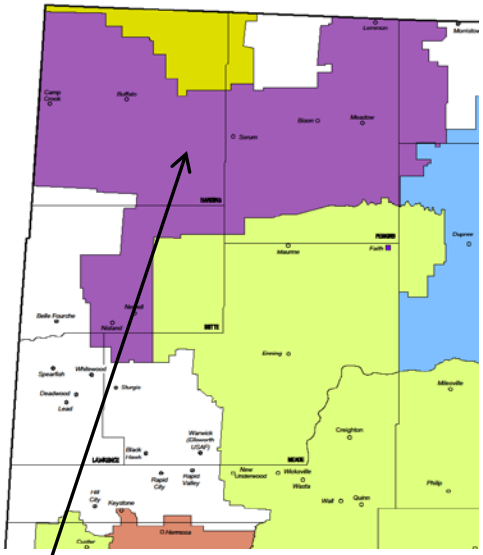
March 19, 2011 – 4pm ET

Jerry Reisenauer, West River General Manager

Rod Bowar, Kennebec General Manager/Owner

Meeting Premise

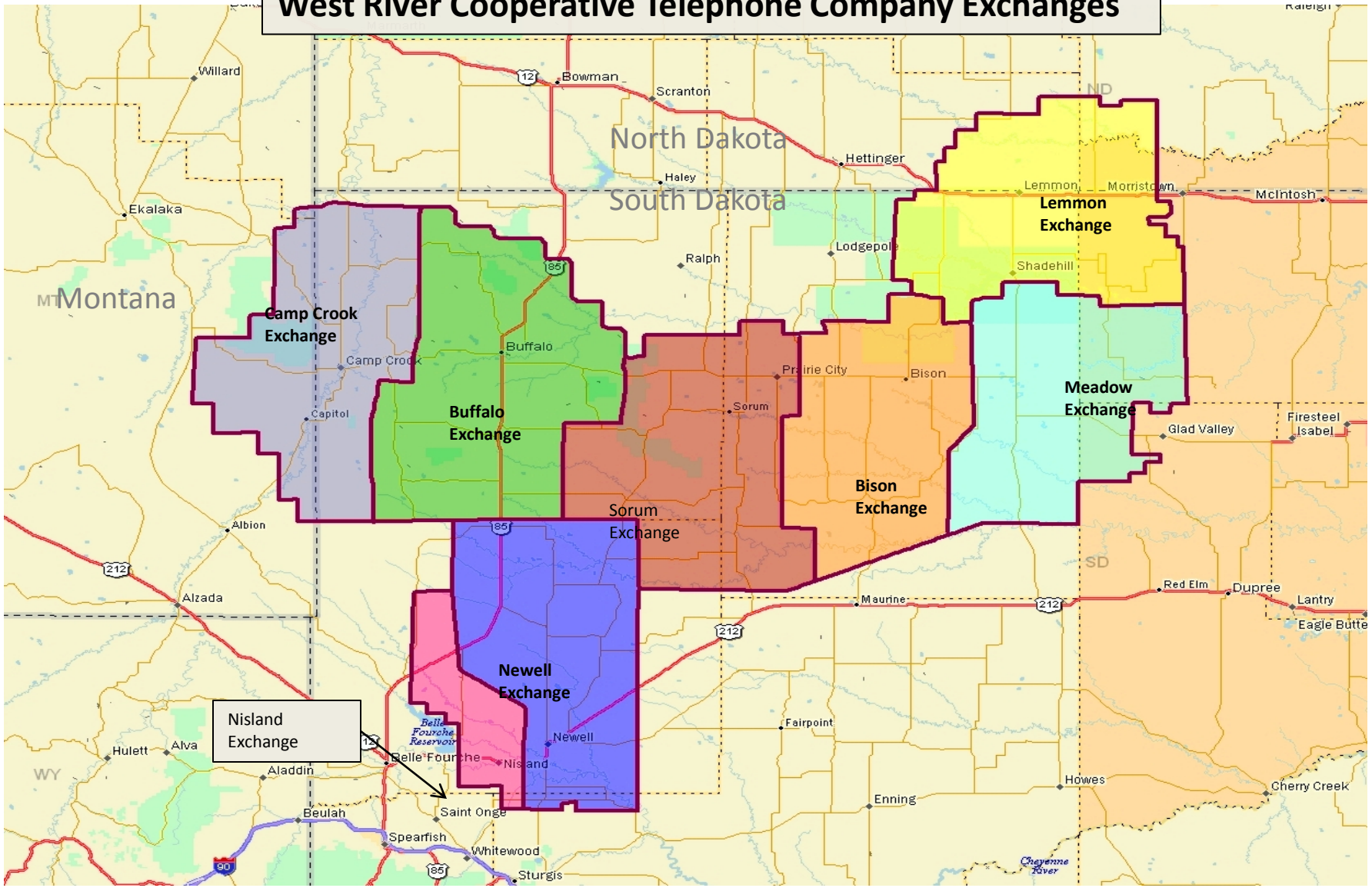
- West River and Kennebec, two rural South Dakota ILECs, have discovered inaccurate mapping data in the FCC's quantile regression model.
- With the limited details available to us, we believe the identified input errors have improperly reduced their HCLS eligibility.
- With no process defined for error correction, these companies face serious financial harm – we seek your assistance in correcting these errors and the unintended consequences.



West River	Actual	FCC Model
Loops	3,479	3,479
Square Miles	**6,209**	**261**
Housing Units	**3,526**	**564**

Kennebec	Actual	FCC Model
Loops	743	743
Square Miles Served	**742**	**305**
Housing Units	623	528

West River Cooperative Telephone Company Exchanges



West River's service area includes territory in the States of South Dakota, Montana and North Dakota.

Not to Scale

Algorithm Categories “Capped”

- West River
  - C&WF - Gross Plant (AL1)
    - **Land Area = second most significant coefficient**
  - C&WF - Depreciation and Amortization (AL17)
    - **Land Area = second most significant coefficient**
- Kennebec
  - Materials and Supplies (AL7)
    - **Land Area = second most significant coefficient**
  - C&WF - Maintenance Expense (AL13)
    - **Land Area = second most significant coefficient**
  - C&WF - General Support Expense (AL15)
    - **Land Area = second most significant coefficient**

Possible Impacts of Erroneous Data

- With the square mile data of the two companies in error by factors of 23.8x and 2.4x respectively, the companies may be in the wrong group of “similarly situated” peers.
- With Land Area as the second most significant coefficient in every algorithm category that was capped, correction of all mapping errors would yield different results.
- While these specific errors may or may not be mathematically significant to the model, they are financially harmful to West River and Kennebec.

Financial Consequences

- As a result of the inaccurate inputs, West River and Kennebec will not be eligible for redistributed HCL support under the new order.
- West River loses approximately **$600k** in annualized incremental HCL support eligibility, while Kennebec loses approximately **$60k** in support eligibility.
- The amount of the forfeited HCL support due to these errors, combined with the consequences of other policy changes such as lost LSS, results in significant financial harm to both companies.

Error Correction Process Needed

- No process for correction of input errors is defined in the order.
- West River and Kennebec, impacted by data errors outside their control, should not have to face the cost, or uncertainty, of a waiver process to get their in accurate data corrected.
- Examples of other data corrections from the Attachment to Sharon Gillett's February 21st peer review charge letter:
  - Addition of Allband census data
  - 3 study areas excluded from the regression
  - Addition of Guam and American Samoa
  - Exclusion of 25 cost companies with frozen support
- How do we get the inaccurate data corrected?

West River Gross Plant Analysis (AL1)

The 70 Study Areas w/ between 3,000 and 4,000 Loops

SAC	Study Area Name	ST	SACPL	Loops	Land Area sq. miles	Housing Units	C&WF Gross Plant		Rank if GP per Loop	Rank if GP per Sq.mi./Loop
391689	**WEST RIVER COOP**	**SD**	**1,856**	**3,479**	**6,209**	**3,526**	**33,830,604**		**1**	**62**
452179	GILA RIVER TELECOM.	AZ	2,686	3,658	677	3,298	31,807,257		2	23
431988	DOBSON TEL CO	OK	2,095	3,492	2,432	4,109	27,301,001		3	58
411780	HAVILAND TEL CO	KS	1,739	3,212	1,497	3,330	20,445,176		4	55
421890	GREEN HILLS TEL CORP	MO	1,425	3,262	838	4,180	19,406,586		5	48
320759	DAVIESS-MARTIN/RTC	IN	1,300	3,073	196	2,878	17,671,001		6	13
361501	WEST CENTRAL TEL	MN	1,575	3,523	805	5,164	20,157,840		7	44
341025	SHAWNEE TEL. CO.	IL	1,808	3,702	509	4,380	20,797,055		8	25
391685	VALLEY TELECOMM.	SD	1,476	3,227	2,344	3,404	18,025,777		9	60
330918	NELSON TEL COOP	WI	1,170	3,714	388	3,525	20,557,498		10	20
391647	CHEYENNE RIVER SIOUX	SD	1,097	3,112	4,714	2,785	17,158,439		11	65
431994	GRAND TEL CO INC	OK	1,287	3,265	110	4,004	18,000,919		12	3
421914	MARK TWAIN RURAL TEL	MO	1,087	3,713	1,021	4,316	20,043,819		13	49
411833	SOUTHERN KANSAS TEL	KS	1,798	3,998	1,457	4,548	20,675,720		14	52
381631	RED RIVER RURAL TEL	ND	1,056	3,529	1,605	4,374	18,022,197		15	57
330908	MARQUETTE-ADAMS COOP	WI	1,480	3,278	184	4,324	16,413,825		16	11
341047	MCDONOUGH TEL COOP	IL	1,327	3,610	671	4,532	17,702,088		17	41
442116	MUENSTER DBA NORTEX	TX	1,267	3,847	472	4,009	18,156,997		18	26
351129	CITIZENS MUTUAL TEL	IA	959	3,401	435	3,420	15,789,299		19	34
421917	MID-MISSOURI TEL CO	MO	1,296	3,469	714	3,834	15,947,669		20	47

If Gross Plant is analyzed solely based on loop counts, West River is the highest cost SA of the 70 SAs between 3,000 and 4,000 loops. **If line density is considered, West River is among the lowest cost SAs in the group of 70 (#62).**

A similar analysis of Depreciation Expense (AL17)ranks West River #1 based solely on loops and # 58 based on line density.

To determine line density for this analysis, we divided total Gross Plant investment by the quotient of square miles served/loops. **West River's network covers 1.78 square miles of study area for each loop. The peer group average is 0.53 square miles.**

The West River Sorum exchange covers 1,368 square miles and serves 159 access lines, 8.6 square miles per loop.

Kennebec Materials & Supply Analysis (AL7)

160 Study Areas w/ less than 1,000 Loops

SAC	SANAME	ST	SACPL	Loops	Materials & Supplies	Maint. Expense	Gen Supp. Expense	Land area Sq. Miles	Housing Units		Rank if by Loops	Rank if by sqmi/Loop
442073	BORDER TO BORDER	TX	15,868	96	66,947	15,347	47,649	472	115		1	97
432029	TERRAL TEL CO	OK	5,077	217	120,255	64,213	51,477	52	314		2	13
462178	AGATE MUTUAL TEL CO	CO	4,530	113	45,921	67,365	26,109	418	178		3	98
610989	ADAK TEL UTILITY	AK	12,822	151	59,816	152,847	141,893	759	500		4	100
371557	HARTMAN TEL EXCH INC	NE	2,799	466	137,581	135,005	32,678	637	437		5	36
300598	MCCLURE TEL CO	OH	1,974	587	124,847	31,103	14,511	34	753		6	2
431831	S. CENTRAL TEL - OK	OK	5,443	297	60,510	89,363	25,683	150	242		7	30
472233	RURAL TEL CO - ID	ID	2,530	684	115,123	217,035	53,284	3,864	1,491		8	86
351130	CLARENCE TEL CO	IA	1,559	643	80,421	37,840	37,942	83	729		9	11
341045	LEAF RIVER TEL CO	IL	1,929	405	50,626	187,658	31,516	51	603		10	15
442066	DELL TEL. CO-OP - TX	TX	6,624	833	99,477	260,200	137,371	7,395	1,044		11	103
462195	SOUTH PARK TEL. CO.	CO	6,116	167	19,689	5,839	17,921	169	402		12	88
532390	OREGON-IDAHO UTIL.	OR	2,986	662	71,252	175,952	55,372	4,931	1,438		13	107
391668	**KENNEBEC TEL CO**	**SD**	**2,258**	**743**	**79,724**	**215,450**	**125,695**	**742**	**528**		**14**	**46**
351105	AYRSHIRE FARMERS MUT	IA	1,353	255	26,770	28,733	15,128	95	318		15	51
442065	CUMBY TEL COOP INC	TX	903	747	77,039	49,213	7,150	50	738		16	4
482254	SOUTHERN MONTANA TEL	MT	2,902	956	80,029	67,010	18,661	3,205	1,031		17	82
462202	ROGGEN TEL COOP CO	CO	1,985	232	19,289	11,372	18,105	204	244		18	84
452191	ACCIPITER DBA ZONA	AZ	6,709	521	43,044	59,343	40,071	30	58		19	7
150085	CROWN POINT TEL CORP	NY	1,080	833	67,021	164,905	19,314	81	1,148		20	9

If Materials and Supplies are analyzed solely based on loop counts, Kennebec is in the Top 10% of the 160 companies with less than 1,000 loops. If line density is considered, Kennebec falls to #46 in the group of 160 .

A similar analysis of Maintenance Expense ranks Kennebec #17 based solely on loops and #76 based on line density. (AL13)

To determine line density for this analysis, we divided total Gross Plant investment by the quotient of square miles served/loops. Kennebec serves one customer for every one square mile of service area.

A similar analysis of General Support Expense ranks Kennebec #13 based solely on loops and #55 based on line density. (AL15)

Peer Review Comments

- Tracy Waldon, Media Bureau
  - "…in its current form, the Appendix does not make a convincing argument that the existing explanatory variables are sufficient to adequately determine similarly situated study areas."
  - "The process by which firms produce telecom services is fairly well known. Existing knowledge about that production process from engineering models and studies may provide the best guidance in regards to which factors are the most significant cost drivers."

- Paroma Sanyal, Economist OSP
  - "…one may think about using an alternative variable, such as loop length, which may be a better predictor of cost than simple loop counts."
  - "Arguably, the cost of the one long loop will be greater than the cost of a short loop, and thus using the number of loops as a covariate distorts the cost predictions on the long-loop carrier."